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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,028	10/29/1999	CLAIRE BESET-BATHIAS	Q56456	5444
7590	06/04/2004		EXAMINER	
SUGHRUE MION ZINN MACPEAK & SEAS PLLC 2100 PENNSYLVANIA AVENUE N W SUITE 800 WASHINGTON, DC 200373213			SHAH, CHIRAG G	
		ART UNIT	PAPER NUMBER	
		2664		
DATE MAILED: 06/04/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/429,028	BESSET-BATHIAS, CLAIRE
	Examiner Chirag G Shah	Art Unit 2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 April 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 14-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 14-24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 14, 20-24, rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen et al (U.S. Patent No. 5,802,051) in view of Subbiah et al (U.S. Patent No. 6,538,992).

Referring to claims 14, and 22-24, Petersen et al discloses a method and/or a device controller for generating ATM cells for low bit rate application in figure 6 and in column 4, lines 58 to column 4, lines 56 (low bit rate connections into a same ATM connection by simultaneously multiplexing more than one user data packet on a single minicell connection as a function of transmission priority by employing a predefined transmission priority assignment schedule and by providing a modified user data packet segmentation process). Petersen et al also discloses in figure 1 and respective portions of the specification of a method of improving the utilization of available bandwidth when ATM is used in conjunction with a low bit rate data application. Petersen et al discloses in table 1 of employing a predefined transmission priority assignment scheduling but fails to explicitly discloses of scheduling transmission times for ATM cells in a way that as long as there is data available from at least one of a plurality of low bit rate connections, the transmission times are spaced according to a cell rate negotiated for a corresponding ATM connection; and multiplexing the low bit rate connections into the ATM

connection so that the ATM cells are transmitted at scheduled transmission times. Subbiah et al teaches in column 3, lines 12-59 of a method of scheduling ATM cell transmission times based on AAL2 negotiation procedures and discloses that delay (one of the main QOS parameters) requirement for different AAL2 users can be controlled by a Timer_CU that is used in process of packing or placing packets in a ATM cell. Furthermore, in the respective section, if a AAL2 user has specified a delay, e.g. 4 ms, of packing time, then a packet belonging to that user is retained in a ATM cell only for 4 ms before being transmitted to the remote peer entity, if there are no packets from the other users, then the ATM cell containing only that user's packet is transmitted immediately after 4 ms expires. Thus, scheduling transmission times for ATM cells in accomplished in a way based on QoS requirement for different AAL2 user controlled by a Timer_CU and cell rate negotiated (AAL2 Negotiation Procedure (ANP), during the ANP, the QoS requirement for each user is obtained as disclosed in column 7, lines 1-20) for a corresponding ATM connection. In addition, Subbiah discloses in column 6, lines 24-36 of using AAL2 network to target towards voice and telephony over ATM, where voice packets from different users can be multiplexed on a single ATM connections. Furthermore, if a user requests CBR service as disclosed in column 7, lines 59 to column 8, lines 11, then voice packets belonging to that particular user can be placed in a single ATM cell payload and sent immediately to avoid any delays. Subbiah further discloses in figures 1 and 2 and columns 7, lines 1-20, column 7, lines 46 to column 8, lines 55 and in claims 1-7 and respective portions of the specification of receiving a plurality of call requests for transferring a plurality of packets (each request having QoS requirements) and then following a successful negotiating of the cell rate, a packet is placed in the queue with the same QoS, if a QoS of a packet is stringent (no

delay), the packet sent to the ATM cell is multiplexed with other packets and immediately transmitted to the remote peer entity via an ATM connection (thus disclosing the limitation of multiplexing the low bit rate connections into the ATM connection so that ATM cells are transmitted at scheduled negotiated transmission times). Therefore, it would have been obvious to one of ordinary skill in the art to modify the teachings of Petersen to include the teachings of Subbiah in order to control delay and improve efficiently and bandwidth usage for the ATM cell transmissions.

Referring to claims 20 and 21, Petersen teaches in figures 1 and 2 of multiplexing being carried out at ATM adaptation Layer level. Petersen also discloses in column 5, lines 15 to column 6, lines 50 that low bit rate connections are assigning different priorities. Petersen further discloses in column 3-6 of multiplexing (inter-priority) of a plurality of low bit rate connections into a same ATM connection by simultaneously multiplexes more than one user data packet on a single minicell connection as a function of transmission priority by employing a predefined transmission priority assignment schedule and by providing a modified user data packet segmentation process). Petersen fails to disclose that the multiplexing step includes an intra-priority multiplexing for multiplexing low bit rate connections of the same priority. Subbiah discloses in claims 1 and 12 and respective portions of the specification of multiplexer that combines/multiplexes (intra-priority) one or more packets within each of the queues having same QoS requirements into cells having like QoS requirement. Subbiah further discloses in claims 2 and 13 that intra-priority multiplexing is supported by using AAL2 (ATM Adaptive Layer 2). Subbiah further discloses in column 4 that plurality of queues having different QoS requirements are provided in a ATM service module at the local peer entity and that the queues

with the different QoS requirement are multiplexed in a ATM cell and transmitted via a ATM connection to the remote peer, implying that inter-priority multiplexing takes place at the ATM layer. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teaching of Petersen to include the teachings of Subbiah in order to efficiently transfer packets from the local entity to the remote entity based on different QoS requirements.

Claims 15-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen (U.S. Patent No. 5,802,051) in view of Subbiah as applied to claims 1, 8-11, 14, and 20-24 above, and further in view of Depelteau (U.S. Patent No. 6,404,767).

Referring to claim 18, Petersen in view of Subbiah teaches of scheduling ATM cell transmission times in a way as to keep ATM cell spacing constant and multiplexing a plurality of low bit rate connection into a same ATM connection in generating ATM cells for low bit rate applications. Petersen in view Subbiah also teach of performing transfer negotiations for the corresponding ATM connection. However, Petersen in view of Subbiah fail to disclose that ATM cell spacing is kept as close as possible to a cell rate negotiated renegotiated for the corresponding ATM connection. Depelteau teaches of systems and methods for implementing ABR flow control in ATM switches. Depelteau discloses in column 2, that each cell contains an explicit rate parameter which may be adjusted as the cells pass through the ATM switches in the path in either the forward or backward direction and that explicit rate contained in the cells when it returns to the source is the maximum rate at which the source can send cells and it may be reduced as low as the minimum cell rate guaranteed to the source during connection establishment. Thus, a cell rate is negotiated and renegotiated. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Petersen in

view of Subbiah's invention to include what Depelteau teaches in order for cell rate to have the ability to renegotiate allowing sufficient rates to establish a connection.

Referring to claims 15-17, Peterson in view of Subbiah teaches of scheduling ATM cell transmission times in a way as to keep ATM cell spacing constant and multiplexing a plurality of low bit rate connection into a same ATM connection in generating ATM cells for low bit rate applications. Petersen in view of Subbiah fails to teach that the cell rate is a service category type of PCR, CBR or DBR and BCR and ABR type. Depelteau discloses in columns 6-8 that cells are generated on a per ABR connection basis and that each port has a fixed output capacity. At any instant in time, portions of this capacity must be allocated to various traffic classes including VBR, CBR and ABR. Each virtual connection of any type including ABR is always guaranteed. For each port, high priority traffic such as VBR and CBR is serviced first. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Petersen in view of Subbiah's invention to include the teaching of including the capacity to allocate service type for various traffic scenarios as taught by Depelteau to provide a better more effective utilization of bandwidth.

3. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen in view of Subbiah as applied to claims 14, and 20-24 above, and further in view of Gritton (U.S. Patent No. 5,940,397).

Referring to claim 19, Petersen in view of Subbiah fail to explicitly teach that when no ATM cell is sent when there is no data available from any low bit connections, and method includes a further step of referencing scheduling step with respect to the next availability of data

from at least one of low bit application. Gritton teaches of a method and an apparatus for scheduling and transmitting ATM data cells. Gritton discloses in claim 1, figures 2, 3, 5b, 5c and respective portions of the specification of scheduling ATM cell transmission times in a way as to keep ATM cell spacing as constant as possible. This is accomplished via communication between the segmenter and scheduler, indicating that the VC has cells stored within memory and may be transmitted. Scheduler, then determines the most appropriate time to transmit a cell making sure to keep cell spacing as constant as possible in order to avoid any traffic congestion or bottlenecking. Gritton further teaches in columns 4 and 5 that scheduling methods effectively multiplex cells from a plurality of VCs, and allow each VC to have a unique transmission rate that can be dynamically adjusted and can support a plurality of transmission priority levels. Thus, multiplexing a plurality of connections into a same ATM connection having the scheduled ATM cell transmission times takes place Schedule. Gritton also discloses in column 11 that if no ATM cell is sent when there is no data available for any of the connection, a method further includes referencing and scheduling with respect to the next availability of data from at least one of the connections. Therefore, it would have been obvious to modify the teachings of Petersen in view of Subbiah to include the teachings of Gritton in order to reduce delay and increase throughput and efficiency.

Response to Arguments

4. Applicant's arguments filed 03/29/04 have been fully considered but they are not persuasive.

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the present invention keeps cell spacing constant by waiting until the schedule transmission time (AST) to multiplex/insert the packets into an ATM cell and transmit the ATM cell") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In addition, Applicant argues that Subbiah teaches ATM cell transmission is variably spaced according to the negotiated cell (i.e., QoS) and fill level of the ATM cell. Applicant once again relies upon limitation not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. **Any response to this action should be mailed to:**

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Or faxed to:

(703)305-3988, (for formal communications intended for entry)

Or:

(703)305-3988 (for informal or draft communications, please label "Proposed" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G Shah whose telephone number is 703-305-5639. The examiner can normally be reached on M-F 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs
May 26, 2004


Art Patel
Primary Examiner